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OCT 30 2003

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

LUTHER A. THOMAS, Clerk
By: *[Signature]*
Deputy Clerk

IN RE: TRI-STATE
CREMATORY LITIGATION

MDL DOCKET NO. 1467

This Order relates to:

ALL CASES

ORDER

This case is before the Court on Funeral Home Defendants' Motion to Strike Plaintiffs' Status Report, Amended Response to Statement of Material Facts, and Supplemental Response to W.L. Wilson & Sons' Motion for Summary Judgment [536].

On October 7, 2003, Funeral Home Defendants filed their Motion to Strike Plaintiffs' Status Report, Amended Response to Statement of Material Facts, and Supplemental Response to W.L. Wilson & Sons' Motion for Summary Judgment. Funeral Home Defendants complain that Plaintiffs filed an Amended Response to Defendant W.L. Wilson & Sons' Statement of Material Facts and a Supplemental Response to Defendant W.L. Wilson & Sons' Motion for Summary Judgment, without first obtaining permission from the Court. Funeral Home Defendants also complain that Plaintiffs filed an improper and unnecessary Status Report Regarding Discovery. Funeral Home Defendants request that the Court strike the Status Report, Amended Response to Statement of Material Facts, and Supplemental Response to Defendant

W.L. Wilson & Sons' Motion for Summary Judgment, and that the Court sanction Plaintiffs' counsel for filing those documents.

Plaintiffs have responded that they submitted the Status Report and Supplemental Response to Defendant W.L. Wilson & Sons' Motion for Summary Judgment in an attempt to correct an error in their response to Defendant Wilson & Sons' Statement of Material Facts and to keep the Court updated concerning the progress of discovery. Plaintiffs have stated that they did not intend to prejudice Funeral Home Defendants or harm Funeral Home Defendants by filing the Amended Response to Statement of Material Facts, Supplemental Response to Defendant W.L. Wilson & Sons' Motion for Summary Judgment, or Status Report. Plaintiffs, however, have indicated that they will withdraw those documents if the documents are disturbing to Funeral Home Defendants.

The Court observes that Funeral Home Defendants' Motion to Strike is moot, because Plaintiffs are willing to withdraw the pleadings that offend Funeral Home Defendants. The Court will not sanction Plaintiffs' counsel for their conduct in filing the allegedly offending pleadings, as it does not appear that Plaintiffs' counsel filed those pleadings in bad faith or in an attempt to prejudice Funeral Home Defendants.

The Court, however, instructs the parties not to file supplemental or amended pleadings without first obtaining the Court's permission to file those pleadings. The Court will grant

permission to supplement or amend pleadings only in extreme circumstances. The record in this case is voluminous, and parties should limit their use of supplemental pleadings to extreme circumstances.

ACCORDINGLY, the Court **DENIES AS MOOT** Funeral Home Defendants' Motion to Strike Plaintiffs' Status Report, Amended Response to Statement of Material Facts, and Supplemental Response to W.L. Wilson & Sons' Motion for Summary Judgment [536]. The Court will not consider Plaintiffs' Status Report, Amended Response to Statement of Material Facts, and Supplemental Response to W.L. Wilson & Sons' Motion for Summary Judgment when ruling on the issues in this case.

IT IS SO ORDERED, this the 30th day of October, 2003.


UNITED STATES DISTRICT JUDGE